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PART-I

Notifications, Orders and Declarations by Haryana Government

STATE ELECTION COMMISSION, HARYANA
NIRVACHAN SADAN, PLOT NO.2 SECTOR-17, PANCHKULA

Order

The 12th March, 2018

No.SEC/3ME/2018/1364.—

Subject :- Disqualification of Sh. Devender Sharma, contesting candidate from Ward No.13 of Municipal Corporation, Karnal.

The General Election of Municipal Corporation, Karnal was held on 02.06.2013 and the result of the elected candidates was declared on 04.06.2013.

2. Section 8B of the Haryana Municipal Corporation Act, 1994, provides that every candidate at an election shall, either himself or by his election agent, keep a separate and correct account of all expenditure in connection with the election incurred or authorized by him or by his election agent from the date of filing of nomination papers to the date of declaration of the result thereof, both dates inclusive. The account shall contain such particulars, as may be notified by the State Election Commission in this behalf. The total of the said expenditure shall not exceed such amount as may be notified by the State Election Commission from time to time.

3. State Election Commission issued Notification No.SEC/4ME/2007/7027, dated 09.05.2007 in exercise of powers conferred *inter alia* under Section 8D of the Act and made the Haryana Municipal Corporation Election Expenditure (Maintenance and Submission of Accounts) Order, 2007. Clause 5(6) of the Order provide that every contesting candidate or his election agent shall lodge account of election expenditure within thirty days from the date of declaration of election result with the Deputy Commissioner or an officer authorized by the State Election Commission.

4. Section 8D of the Haryana Municipal Corporation Act, 1994 read with Section 10 A of the Representation of People Act, 1951 further provides that if the Election Commission is satisfied that a person –

- (a) has failed to lodge an account of election expenses, within the time and in the manner required by or under this Act, and
- (b) has no good reason or justification for the failure

the Election Commission shall, by order published in the Official Gazette, declare him to be disqualified and any such person shall be disqualified for a period of three years from the date of the order.

5. In pursuance of the above provisions, the State Election Commission, Haryana *vide* its Notification No. SEC/4ME/2013/2320, dated 02.05.2013 in exercise of powers vested under clause (i) Article 243 ZA of the Constitution of India, sub-section 3 of Section 8B of the Haryana Municipal Corporation Act, 1994 had prescribed the limit of expenditure of Rs.1,75,000/- that may be incurred by the contesting candidate or his authorized agent in connection with election of Municipal Corporation, Yamuna Nagar and account of election expenses shall be filed/lodged with the Deputy Commissioner or any other officer prescribed by the Commission within 30 days from the date of declaration of the result of election.

6. The State Election Commissioner, Haryana in exercise of powers contained under Section 9(1A) of the Haryana Municipal Corporation Act, 1994 authorized District Attorney, State Election Commission, Haryana *vide* order No.SEC/1ME/2017/2017, dated 01.12.2017 to decide the cases of disqualification of the candidates, who failed to lodge their account of election expenses.

7. As reported by the Deputy Commissioner, Karnal, the above mentioned candidate had contested the election from Ward No.13 of Municipal Corporation, Karnal but failed to submit his election expenditure account within the prescribed time or thereafter. The Commission had served a show cause notice upon him to explain as to why he should not be disqualified on account of non submission of election expenditure account within the period. He neither submitted his election expenditure statement nor responded to the show cause notice. I, had given him personal hearing on 27.02.2018 in the PWD Rest House, Karnal in the interest of natural justice *vide* letter No.SEC/3ME/2018/665, dated 12.02.2018. Sh.Ravi Kumar, Clerk of the Municipal Corporation, Karnal, represented the Deputy Commissioner Karnal. The above said candidate appeared for personal hearing and submitted the following:-

“He had not deposited the expenditure register due to illness and now wants to deposit it so give some time to deposit it. He has not submitted any proof of illness. The MC official verified that register has not been submitted as per their record.”

8. After personal hearing, the order was announced.

9. On perusal of record of the case and after hearing of the candidate, I am satisfied that Section 8 (D) and Clause 5(6) of the Haryana Municipal Corporation Election Expenditure (Maintenance and Submission of Accounts) Order, 2007 are mandatory and time limit of thirty days for lodging account of election expenses from the date of election result cannot be condoned without good reason or justification for the failure. Hence, he has not complied with the mandatory provision of Clause 5(6) of the Haryana Municipal Corporation Election Expenditure (Maintenance and Submission of Accounts) Order, 2007 and is liable for disqualification under Section 8(D). Hence I, Anil Kumar Aggarwal, District Attorney, State Election Commission, Haryana, under Section 8D of the Haryana Municipal Corporation Act, 1994 read with Clause 5(6) of the Haryana Municipal Corporation Election Expenditure (Maintenance and Submission of Accounts) Order, 2007 and Section 10 A of the Representation of People Act, 1951 hereby order that **Sh. Devender Sharma** be disqualified for being chosen as, and for being a member of Municipality for a period of three years from the date of this order as they have failed to lodge the account of election expenses within thirty days from the date of declaration of election result without good reason and justification.

10. The office is directed to send a copy of this order to the candidate concerned through Deputy Commissioner, Karnal immediately.

Panchkula:
The 9th March, 2018.

ANIL KUMAR AGGARWAL,
District Attorney,
State Election Commission, Haryana.